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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Comments of the Human Rights Committee

United Kingdom of Great Britain and Northern Ireland

1. The Committee considered the fourth periodic report of the United Kingdom of Great Britain and Northern Ireland (CCPR/C/95/Add. 3) at its 1432nd, 1433rd and 1434th meetings (see CCPR/C/SR.1432 to 1434), on 20 and 21 July 1995 and adopted[1] the following comments :

A. Introduction

2. The Committee expresses its appreciation to the State party for its detailed and exhaustive report which largely complies with the Committee's guidelines, though regret is expressed concerning the failure to address adequately issues properly arising under article 26 of the Covenant. The high competence of the delegation which presented the report is to be acknowledged as is their willingness to offer thorough and helpful answers to the wide range of questions put by members. The Committee particularly appreciates the frank acknowledgement by the delegation of those legal issues regarding which the Government of the United Kingdom is still in disagreement with views of the Committee, and for their willingness to engage in dialogue with regard to those issues. In this context, the delegation indicated that it would present written observations setting out the view of the Government on the Committee's General Comment No.24(52) on issues relating to reservations made upon ratification or accession to the Covenant or to the Optional Protocols thereto, or in relation to declarations under article 41 of the Covenant[2]. It is the view of the Committee that the exchange of views with the State party has been particularly fruitful and constructive.

[1] At the 1442nd meeting (fifty-fourth session), held on 27July 1995.

[2] The written observations setting out the view of the Government on the Committee's General Comment No.24(52) were submitted to the Chairman of the Committee on 21 July 1995.

3. The detailed information submitted by a wide range of non-governmental organisations has not only greatly assisted the Committee but is also a tribute to the democratic nature of United Kingdom society. These organisations play an essential role in furthering protection of human rights in the country.

B. Factors and difficulties affecting the implementation of the Covenant.

4. With regard to all parts of the United Kingdom other than Northern Ireland, the Committee finds that there are no significant factors or other difficulties which should prevent the effective implementation of the Covenant by the Government. With regard to Northern Ireland, the Committee notes that despite the recent cease-fire and political negotiations, lack of final political solution and continuation of emergency legislation present difficulties affecting the full implementation of the Covenant.

C. Positive aspects

5. The Committee warmly welcomes and encourages the initiation of the peace process in Northern Ireland. It acknowledges the historic significance of the recent initiatives and of their importance for the promotion and protection of the human rights, including the right of self-determination.

6. While the Committee does not agree with some of the positions of the State party concerning the implementation of the Covenant, it acknowledges the vibrant climate of debate in the United Kingdom which ensures that issues of human rights are comprehensively discussed, and in which it is clear that all points of view are seriously considered.

7. The Committee acknowledges the efforts of the State party to combat racial and ethnic discrimination. The programmes to promote the position of racial and ethnic minorities in society are welcomed, including relevant changes to the entry examination system for the police force, proposed similar changes for the prison service, the activities of the Commission for Racial Equality, and the attention paid to race and ethnic sensitivity training in the training programmes for the judiciary.

8. Improvements in the prison system are welcomed. The Committee welcomes the improvements in prison sanitation conditions and the steps taken in addressing problems of overcrowding within prisons. The Government is to be commended for introducing a system whereby participation by prisoners in programmes of education is remunerated in the same way as engagement in prison labour. The statement by the delegation that accommodation of prisoners in cells at police stations has ceased from June of this year is also to be welcomed. The appointment of a Prisons Ombudsman by the Government in April 1994 is highly appreciated.

D. Principal subjects of concern

9. The Committee notes that the legal system of the United Kingdom does not ensure fully

that an effective remedy is provided for all violations of the rights contained in the Covenant. The Committee is concerned by the extent to which implementation of the Covenant is impeded by the combined effects of the non-incorporation of the Covenant into domestic law, the failure to accede to the first Optional Protocol and the absence of a constitutional Bill of Rights.

10. The Committee also regrets the decision of the State party not to withdraw any of its reservations under the Covenant.

11. It is the view of the Committee that the powers under the provisions permitting infringements of civil liberties, such as of extended periods of detention without charge or access to legal advisors, entry into private property without judicial warrant, imposition of exclusion orders within the United Kingdom, etc., are excessive. Note is taken of the government's own admission that conditions at the Castlereagh detention centre in Northern Ireland are unacceptable and concern is therefore expressed at the Government's admission that it has not decided definitively to close the facility. The Committee is also disturbed by reports of the continuation of the practice of strip searching male and female prisoners in the context of the low security risk that now exists or the existence of adequate alternative search techniques.

12. Despite the recent improvements in prison conditions in the United Kingdom, the Committee is still disturbed by the high number of suicides of prisoners, especially among juveniles.

13. The Committee is concerned that, notwithstanding establishment in the United Kingdom of mechanisms for external supervision of investigations of incidents in which the police or military are allegedly involved, especially incidents that result in death or wounding of persons, as the investigations are still carried out by the police, they lack sufficient credibility.

14. The Committee notes with concern that members of some ethnic minorities including Africans and Afro-Caribbeans are often disproportionately subjected to stop and search practices that may raise doubts under the non-discriminatory provisions of the Covenant, particularly its articles 3 and 26.

15. The treatment of illegal immigrants, asylum-seekers and those ordered to be deported gives cause for concern. The Committee observes that the incarceration of persons ordered to be deported and particularly the length of their detention may not be necessary in every case and it is gravely concerned at incidences of the use of excessive force in the execution of deportation orders. The Committee also notes with concern that adequate legal representation is not available for asylum-seekers effectively to challenge administrative decisions.

16. The Committee is concerned that the practice of the State party in contracting out to the private commercial sector core State activities which involve the use of force and the detention of persons weakens the protection of rights under the Covenant. The Committee stresses that the State party remains responsible in all circumstances for adherence to all articles of the Covenant.

17. The Committee notes with concern that the provisions of the Criminal Justice and Public Order Act of 1994, which extended the legislation originally applicable in Northern

Ireland, whereby inferences may be drawn from the silence of persons accused of crimes, violates various provisions in article 14 of the Covenant, despite the range of safeguards built into the legislation and the rules enacted thereunder.

18. The Committee is concerned at the levels of support offered for the protection of cultural and ethnic diversity within the United Kingdom. The Committee further notes with concern that many persons belonging to minorities frequently feel that acts of racial harassment are not pursued by the competent authorities with sufficient rigor and efficiency. The Committee also regrets the lack of success in adequate recruitment of ethnic minorities into the police. It further believes that much remains to be done to effect changes in public attitudes and to combat and overcome racism.

19. The Committee regrets that corporal punishment may still be permitted in certain circumstances in independent schools.

E. Suggestions and recommendations

20. The Committee strongly recommends that the State party take urgent steps to ensure that its legal machinery allows for the full implementation of the Covenant. Accordingly it is urged to examine the need to incorporate the Covenant into domestic law or introducing a Bill of Rights under which legislative or executive encroachment on Covenant rights could be reviewed by the courts. It should also reconsider its current position as to the accession to the first Optional Protocol.

21. The State party is recommended to review the reservations which it has made to the Covenant.

22. In the context of the elaboration of a peace settlement for Northern Ireland, the Committee recommends that further concrete steps be taken so as to permit the early withdrawal of the derogation made pursuant to article 4 and to dismantle the apparatus of laws infringing civil liberties which were designed for periods of emergency. It is also recommended that specific efforts be made to enhance in Northern Ireland, confidence in the administration of justice by resolving outstanding cases and by putting in place transparently fair procedures for independent investigation of complaints. The Committee further recommends that the Castlereagh detention centre be closed as a matter of urgency.

23. Given the significant diminution of terrorist violence in the United Kingdom since the cease-fire came into effect in Northern Ireland and the peace process was initiated, the Committee urges the Government to keep under the closest review whether a situation of "public emergency" within the terms of article 4, paragraph 1, of the Covenant still exists and whether it would be appropriate for the United Kingdom to withdraw the notice of derogation, in accordance with article 4 of the Covenant, which it issued on 17 May 1976.

24. The State party should ensure that all those who are involved in the detention of prisoners be made fully aware of the international obligations on the State party concerning the treatment of detainees, including the United Nations Standard Minimum Rules for the Treatment of Prisoners.

25. The Committee recommends that the Criminal Justice and Public Order Act of 1994 and the equivalent legislation in Northern Ireland be reviewed in order to ensure that the provisions which allow inferences to be drawn from the silence of accused persons do not compromise the implementation of various provisions in article 14 of the Covenant.

26. The State party is urged to take further action to tackle remaining problems of racial and ethnic discrimination and of social exclusion. A concerted campaign is called for which would address issues of research, juvenile and adult education, recruitment policies for the public and private sectors, legislative initiative and law enforcement. Similarly forceful action is needed to ensure that women play an equal role in society and that they enjoy the full protection of the law. Law enforcement officers, the judiciary and the legal profession should receive information and education to ensure that laws which protect women from violence are fully enforced and that the interpretation of laws, such as those relating to the doctrine of provocation, does not unfairly discriminate against women. All public officials should be made fully cognisant of the programmes of action and receive guidance to ensure that their actions always serve to support and promote the stated aims.

27. The Committee recommends that corporal punishment administered to privately funded pupils in independent schools be abolished.

28. The Committee recommends that the State party give wide publicity to the Covenant, to its report and the reporting procedure. It recommends that these Comments and information about the dialogue with the Committee be distributed to interested non-governmental groups and the public at large.